

February 13, 1945

Mr. J. Mercer Johnson
County Attorney
Tucson, Arizona

LAW LIBRARY
ARIZONA ATTORNEY GENERAL

Dear Mr. Johnson:

Reply is hereby made to your letter of February 1st in which you ask our opinion on the following question:

May a University professor now employed by the University of Arizona, seek public office as a councilman of the City of Tucson?

We have carefully examined the Constitution and the statutes of Arizona and do not find any express prohibition that would disqualify a University professor from being a candidate for a municipal office. There are several state acts which do expressly prohibit a state officer from holding another position. But this prohibition applies only to the officers therein enumerated. For instance, members of the State Tax Commission and members of the Industrial Commission are expressly inhibited by law from holding another office or be otherwise employed.

Section 12-709 of the Code of 1939 provides that all State or county officers, employees and members of boards and commissions and their deputies, stenographers, clerks and employees shall receive but one salary from state or county funds, in full payment for their services, and that they shall not receive any salary or emolument in excess of such salary. In other words, a person cannot receive two salaries from the same public fund. However, the City of Tucson being a home-rule charter city, is not covered by the restrictions of Section 12-709.

The only restriction at common law on a public officer seems to be that he could not hold any other office, the duties of which were incompatible with the duties of his office. An instructor at the University of Arizona, however, is not a public officer; he is merely an employee of the State.

For the foregoing reasons, we are of the opinion that there is no legal prohibition on a University professor from seeking a public office as a councilman of the City of Tucson.

Very truly yours,

JOHN L. SULLIVAN
Attorney General

HARRY O. JULIANI
Chief Assistant
Attorney General